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WASHINGTON, D.C. 20506~~CONFIDENTIAL~~ACTION

December 2, 1969

MEMORANDUM FOR HENRY A. KISSINGER

FROM: Robert E. Osgood

SUBJECT: Continental Shelf Boundary

Secretary Laird's letter to Secretary of Interior Hickel (Tab A) asks him to delay issuance of leases for exploitation of the continental shelf which extend beyond the limits of current exploitation. The letter has not yet been answered. A related issue has arisen from the failure of interested agencies to agree on what the U. S. position should be at the U. N. with respect to a moratorium on seabeds exploitation claims. DOD expects to call an Under Secretaries Committee to resolve these questions.

Background of This Issue. In response to Secretary Laird's request for a NSSM on several related law of the sea problems on which Defense has differences with Interior and to a lesser extent State, you issued a memorandum to Under Secretary of State Richardson last July suggesting that the Under Secretaries Committee resolve these differences and specifically that it determine what the U. S. Government's position should be in UN discussions concerning the extent of national jurisdiction and exploitative rights on the continental shelf and the adjacent deep sea beds.

The differences between Defense (which wants a narrow definition of the shelf and determination of the definition by international agreement) on the one hand, and Interior and State on the other, have never been resolved; nor has there been an Under Secretaries Committee meeting on this question. Defense now anticipates State's cooperation in calling such a meeting in January. But defense fears that, before then, Interior may have precluded agreement on its position by unilaterally issuing leases for mining in waters far beyond acceptable limits.

Why?

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Secretary Laird's letter is intended to prevent this eventuality. I do not know whether it will succeed. If not, the only way to prevent a major bureaucratic hassle and keep open the issue of how and where the continental shelf boundary is determined will be to take it before the Under Secretaries Committee.

A Related Issue. One of Defense's major positions on the continental shelf boundary question is that, pending an international agreement to define the boundary, there should be an international moratorium on claims (by leases or other means). According to your July memorandum this issue, too, should be determined by the Under Secretaries Committee. Recently, in the UN Seabeds Committee, Uruguay has proposed a resolution that would be equivalent to such a moratorium. Therefore, Defense requested State to instruct USUN to vote in favor of this resolution. But Interior objected and State instructed USUN to vote against it (without consulting Defense). If the US votes in the UN General Assembly against a moratorium proposal substantially similar to the one Defense wants the US to support and introduce, the Under Secretaries Committee would be unlikely to retain the option of approving the DOD position.

For reasons unrelated to this interdepartmental dispute, the UN vote on this resolution has been delayed. An interim USG position has been agreed upon in a meeting chaired by IO in State: the US delegate to the UN has been instructed to abstain. But this will not solve the differences in this Government on the moratorium. Therefore, DOD plans to take the issue to the Under Secretaries Committee.

Under Secretaries Committee. Occasioned by these two disputes, the Under Secretaries Committee would deal with three questions:

1. Where should the boundary between the continental shelf and the deep seabeds beyond national jurisdiction be drawn?
2. How should this boundary be determined? (By international convention or protocol, unilateral U.S. statement, or parallel unilateral statements by a number of countries?)

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*He should issue order
that this can be done pending
undersecretaries meeting.
But on
agenda
of next
meeting
with Redmond*

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3. Pending a decision on these two questions, should there be an international moratorium on further claims and further exploitation of the continental shelf which extends beyond the limits of current exploitation?

Further Analysis. The continental shelf issue is terribly complicated. It is closely related to the prospective law of the seas treaty. To help you understand the issue, I have attached at Tab B a brief explanation that was part of an earlier memorandum to you in June. Since that time many verbal formulas have been argued and a few accepted in the Government, but the three issues to be dealt with in the anticipated Under Secretaries Committee remain essentially unresolved.

Action. Secretary Laird invited you to a briefing on the continental shelf question. Bob Behr went and will write you a memorandum on the subject. However, I believe that you will still need a briefing in order to prepare yourself adequately for an Under Secretaries Committee. I think I can arrange a special briefing for you here (not at the Pentagon) if you will designate a time. This briefing would also give you the kind of information you need if you should decide to take any action on these issues prior to an Under Secretaries Committee meeting.

*Signed
Slope*

RECOMMENDATION:

That you designate a ^{1/2} ~~one~~-hour period to receive an expert briefing on the continental shelf issue.

Approve HK

DATE

Have - 1/2 hour

TIME

Disapprove _____

Dec 23

3 PM

See me _____

Tentatively

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